

22.303

(1) Make an adjustment in, or release the contractor or subcontractor from the liability for, liquidated damages of \$500 or less; or

(2) Make a recommendation to the Secretary of Labor for an adjustment in or release from the liability when the liquidated damages are over \$500.

(d) Upon final administrative determination, funds withheld or collected for liquidated damages shall be disposed of in accordance with agency procedures.

[51 FR 12293, Apr. 9, 1986, as amended at 53 FR 4935, Feb. 18, 1988]

22.303 Administration and enforcement.

The procedures and reports required for construction contracts in subpart 22.4 also apply to investigations of alleged violations of the Act on other than construction contracts.

22.304 Variations, tolerances, and exemptions.

(a) The Secretary of Labor under 40 U.S.C. 331, upon the Secretary's initiative or at the request of any Federal agency, may provide reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of the Act (see 29 CFR 5.15).

(b) The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of applicable parts of 29 CFR when the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship (see 29 CFR 5.14).

[51 FR 12293, Apr. 9, 1986]

22.305 Contract clauses.

The contracting officer shall insert the clause at 52.222-4, Contract Work Hours and Safety Standards Act-Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, the contracting officer shall not include the clause in solicitations and contracts if it is contemplated that the contract will be in one of the following categories:

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(a) Contracts at or below the simplified acquisition threshold.

(b) Contracts for supplies, materials, or articles ordinarily available in the open market.

(c) Contracts for transportation by land, air, or water, or for the transmission of intelligence.

(d) Contracts to be performed solely within a foreign country or within a territory under United States jurisdiction other than a State, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331), American Samoa, Guam, Wake Island, and Johnston Island.

(e) Contracts requiring work to be done solely in accordance with the Walsh-Healey Public Contracts Act (see subpart 22.6).

(f) Contracts (or portions of contracts) for supplies in connection with which any required services are merely incidental to the contract and do not require substantial employment of laborers or mechanics.

(g) Contracts for commercial items (see parts 2 and 12).

(h) Any other contracts exempt under regulations of the Secretary of Labor (29 CFR 5.15).

[51 FR 12293, Apr. 9, 1986, as amended at 53 FR 661, Jan. 11, 1988; 60 FR 34758, July 3, 1995; 60 FR 48248, Sept. 18, 1995]

Subpart 22.4—Labor Standards for Contracts Involving Construction

SOURCE: 53 FR 4935, Feb. 18, 1988, unless otherwise noted.

22.400 Scope of subpart.

This subpart implements the statutes which prescribe labor standards requirements for contracts in excess of \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works. (See definition of *Construction* in section 22.401.) Labor relations requirements prescribed in other subparts of part 22 may also apply.